

**BEFORE THE OKLAHOMA TAX COMMISSION
STATE OF OKLAHOMA**

IN THE MATTER OF GRANTING OF
RELIEF TO TAXPAYERS AFFECTED BY
THE 2021 SEVERE WINTER STORM.

AMENDED ORDER NO. 2021-03-02-04

THIS MATTER CAME before the Oklahoma Tax Commission upon its own motion at the meeting held on March 02, 2021 at 1:30 p.m. for entry of an order granting relief to Oklahoma taxpayers affected by the historic winter storms that began on February 8, 2021. Having reviewed IRS Notice OK-2021-01 (February 25, 2021) and being fully advised as to the premises, the Commission finds:

1. Numerous Oklahoma taxpayers were victims of the historic winter storms that began on February 8, 2021, prompting the Federal Emergency Management Agency to issue a disaster declaration for all seventy-seven counties in Oklahoma.
2. Some of these taxpayers have and/or will experience difficulty in the timely filing of returns and/or payment of Oklahoma taxes for the tax year 2020 due by April 15, 2021; said difficulty is not caused by any intent to evade tax nor willful neglect but rather from circumstances outside the control of the affected taxpayers.
3. As a result of the FEMA disaster declaration, the IRS postponed certain tax-filing and tax-payment deadlines for taxpayers who reside or have a business in the disaster area through IRS Notice OK-2021-01.
4. The IRS postponed certain deadlines for tax year 2020 falling between February 8, 2021 and June 15, 2021 until June 15, 2021. The postponement applies to 2020 individual and business income tax returns normally due on April 15, 2021, as well as various 2020 business income tax returns due on March 15, 2021.
5. The IRS June 15, 2021 deadline also applies to tax year 2021 first quarter estimated tax payments due on April 15, 2021.
6. Under the direction of 68 O.S. §2368(H), when the Internal Revenue Code specifies a date other than the fifteenth day of April following the close of the taxable year, the Commission is required to accept all income tax returns filed by such date and consider all returns filed by that date as timely. The Commission finds a plain and

ordinary reading of the language of the Oklahoma statute is in conflict with the technical language of the Code of Federal Regulations that provides for postponement of deadlines due to Presidentially-declared disasters as authorized by 26 U.S.C. §7508A. Under the administrative law found in 26 C.F.R. §301.7508A-1(D), the postponement of a tax-related act does not extend the due date for the act, it merely allows the IRS to disregard a time period of up to one year for performance of the act.

7. As Oklahoma taxpayers are dependent upon the filing of a federal tax return to ascertain their Oklahoma income tax liability, the Commission believes it is fair and just to effectuate a postponement of the due date in the spirit of 68 O.S. §2368. The Commission may effectuate a postponement of the due date by waiving any and all penalties and/or interest that may accrue through the postponed filing date established by the IRS, specifically June 15, 2021.

8. As Oklahoma's franchise tax filers are dependent upon the filing of a federal business income tax return to calculate their franchise tax liability, the Commission believes it is fair and just to also apply a waiver of penalty and/or interest to this tax type to effectuate a postponement based on the new IRS filing dates.

IT IS THEREFORE ORDERED THAT:

1. Any taxpayer (resident or non-resident) with a payment due by March 15, 2021 and/or April 15, 2021 for 2020 Oklahoma income taxes and/or any estimated 2021 income tax payment due by March 15, 2021 and/or April 15, 2021 is granted a waiver of any penalties and/or interest for payments not received by June 15, 2021.

2. Any taxpayer with an Oklahoma franchise tax return obligation under the provisions of 68 O.S. §1208 shall not be assessed any penalties for late filings if filing is made by August 1, 2021 and any penalties and/or interest shall be waived for any payments not received by September 15, 2021. Nothing herein shall prevent a taxpayer from including their franchise tax return with their corporate return under 68 O.S. §216 should they elect to do so.

3. Any interest and/or penalty which would normally accrue as a result of the taxpayer taking advantage of the postponement granted by this Order shall be and the same is hereby waived so long as the taxpayer has voluntarily filed the returns and/or report(s) and paid the taxes due thereunder. Any waivers of interest and

penalty in excess of Twenty-Five Thousand Dollars (\$25,000.00) requires approval of the Oklahoma County District Court as provided by 68 O.S. §220(B).

4. This Order shall not apply to any other type of tax except those listed in this Order (individual and business income tax returns for 2020, first quarter estimated tax payments for tax year 2021, and franchise tax returns based on data from 2020 business income tax returns). This order shall not and does not apply to withholding tax, sales tax, use tax, beverage tax, motor vehicle tax, gross production tax, or any other tax administered by the Oklahoma Tax Commission nor does it apply to any deadlines applied by the Oklahoma Tax Code for elections or other provisions.

SO ORDERED this 8th day of March, 2021.


ASSISTANT SECRETARY



CHARLES T. PRATER, CHAIRMAN


APPROVED


CLARK JOLLEY, VICE CHAIRMAN


STEVE BURRAGE, SECRETARY-MEMBER

I do hereby certify that the above and foregoing is a true copy of the original document now on file in the offices of the Oklahoma Tax Commission. Witness my hand and official seal of the Oklahoma Tax Commission, this MAR 09 2021

Steve Burrage, Secretary-Member
By: 
Assistant Secretary
Oklahoma Tax Commission